UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/1994/SR.40
4 March 1994

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS

Fiftieth session

SUMMARY RECORD OF THE 40th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 24 February 1994, at 7 p.m.

Chairman: Mr. NEAGU (Romania)

CONTENTS

Further promotion and encouragement of human rights and fundamental freedoms, including the question of the programme and methods of work of the Commission:

(a) Alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms;

(b) National institutions for the promotion and protection of human rights;

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Commission at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.94-11456 (E)

CONTENTS (continued)

(c) Coordinating role of the Centre for Human Rights within the United Nations bodies and machinery dealing with the promotion and protection of human rights;

(d) Human rights, mass exoduses and displaced persons;

(e) International Year of the Family (continued)

Advisory services in the field of human rights (continued)

The meeting was called to order at 7.25 p.m.

FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION:

(a) ALTERNATIVE APPROACHES AND WAYS AND MEANS WITHIN THE UNITED NATIONS SYSTEM FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS;

(b) NATIONAL INSTITUTIONS FOR THE PROMOTION AND PROTECTION OF HUMAN RIGHTS;

(c) COORDINATING ROLE OF THE CENTRE FOR HUMAN RIGHTS WITHIN THE UNITED NATIONS BODIES AND MACHINERY DEALING WITH THE PROMOTION AND PROTECTION OF HUMAN RIGHTS;

(d) HUMAN RIGHTS, MASS EXODUSES AND DISPLACED PERSONS;

(e) INTERNATIONAL YEAR OF THE FAMILY (agenda item 11) (continued)

(E/CN.4/1994/34-38, 39 and Corr.1, 40-42, 43 and Add.1, 44 and Add.1, 45 and 74; E/CN.4/1994/NGO/2-4; A/48/579)

ADVISORY SERVICES IN THE FIELD OF HUMAN RIGHTS (agenda item 19) (continued) (E/CN.4/1994/73/Add.1, 75, 76 and Add.1, 77 and Add.1, 78 and Add.1 and 109; A/CONF.157/23)

1. Mr. JOHNSSON (Inter-Parliamentary Union) said that parliaments had a primary role not only in enshrining the full spectrum of human rights adequately in national law but also in monitoring respect for human rights, as well as steering funds towards key sectors to promote the enjoyment of human rights. Those and other considerations had been examined at the symposium organized by the Inter-Parliamentary Union (IPU) in Budapest in May 1993 on the theme "Parliament: guardian of human rights", where particular emphasis had been placed on the role of specialized parliamentary committees which could examine national legislation from a human rights perspective and also deal with complaints from individuals or groups who felt that their rights had been violated. Mindful of the importance of such committees, IPU had in 1993 issued a world directory of parliamentary human rights bodies.

2. The Inter-Parliamentary Union also had a long-established technical cooperation programme which contained an advisory services component enabling experts to be made available to national parliaments requesting advice on the role, structure and working methods of a particular assembly. The experts also undertook needs assessment missions leading to the establishment of technical cooperation projects. Those involved training of parliamentary staff but frequently included the provision of equipment as well, particularly in an effort to strengthen a parliament's research and information capacity. IPU relied to a large extent upon its members and multilateral institutions to finance such projects. It had a formal cooperation agreement with UNDP and was seeking to develop a similar arrangement with the Centre for Human Rights. It was capable of implementing technical cooperation projects in Asia, Africa and Latin America with the financial support of donor countries.

3. The transition towards democracy in a growing number of countries made assistance to parliamentary institutions more essential than ever. IPU had received as many requests for assistance in the past 3 years as in the previous 20 years combined. In the resolution to be adopted by the Commission it would therefore welcome a strong reference to the need for close and effective cooperation between organizations active in the field of advisory services and technical cooperation, and would greatly appreciate that reference not being limited to organizations of the United Nations system but also including others, such as the Inter-Parliamentary Union. It favoured a comprehensive approach to assistance where organizations consulted each other more frequently on how best they could cooperate for the benefit of a requesting country.

4. Lastly, in the field of elections, IPU was undertaking normative work and conducting an in-depth study. The next IPU statutory conference in Paris in March 1994 was expected to adopt a declaration on criteria for free and fair elections based on an analysis of legal norms and State practice. At the request of national authorities, moreover, IPU sought to be present at elections organized or supervised by the United Nations. It strongly believed that electoral processes should be viewed as a continuum and that consequently there was a need not only to provide assistance prior to elections but also, and possibly more importantly, to assist the elected bodies after the poll. IPU was already providing such assistance in Cambodia, in cooperation with the Centre for Human Rights, and was ready to extend that cooperation, including needs assessment missions, to other countries with a view to strengthening the institutions of democracy, development and human rights.

5. Ms. TOM (Caritas Internationalis), drawing attention to the statement issued by her organization together with Friends World Committee for Consultation (Quakers) and the Commission of the Churches on International Affairs of the World Council of Churches (E/CN.4/1994/NGO/4), said that protection of the human rights of internally displaced persons - now estimated at some 25 million worldwide - remained one of the most daunting challenges facing the international community. International law had not developed in step with the situations causing mass displacement and there was a need to develop a legal foundation for protection and aid. Mention should also be made of the devastating legacy of anti-personnel mines, which remained a threat to civilians long after the cessation of hostilities and constituted a serious obstacle to resettlement. Economic recovery, especially in predominantly agricultural societies, was made impossible and the right to development was jeopardized.

6. Caritas Internationalis commended the activities undertaken by the representative of the Secretary-General on internally displaced persons in the former Yugoslavia, the Russian Federation, Somalia, Sudan, El Salvador and Sri Lanka and was pleased to learn that he hoped to visit Colombia, Burundi and Rwanda in the near future. It also was encouraged by the desire of the United Nations High Commissioner for Refugees to enhance coordination between her Office and the representative of the Secretary-General on internally displaced persons, as well as with the Department of Humanitarian Affairs (DHA) and the International Committee of the Red Cross (ICRC).

7. Caritas Internationalis welcomed the fact that UNHCR had further refined the basic operational criteria for involvement in situations of internal displacement and agreed that in certain situations it was both practically and morally untenable to make distinctions as to who should receive humanitarian assistance or protection on the basis of legal mandates derived from prior status rather than current need. It recognized, however, that UNHCR involvement was dependent on the support of the international community and the provision of sufficient resources. It was deeply concerned about situations where UNHCR would not be involved, in particular with respect to fundamental human rights. The legal norms would remain far from sufficient unless the international community could persuade States to accept responsibility for the welfare of all the people within their territory.

8. To meet the challenge of translating resolutions into action-oriented measures, her organization urged the implementation without delay of a number of suggestions and recommendations, including: a compilation and brief analysis of existing rules and norms, as requested in General Assembly resolution 48/135, to be prepared and issued within six months, possibly with the assistance of an academic or research institution; wider and more systematic use of existing mechanisms, with more NGOs supplying the human rights treaty bodies with reliable information concerning the human rights of internally displaced persons in States whose reports were before those bodies; and encouragement of the joint endeavours of the representative of the Secretary-General, DHA, ICRC and UNHCR. Lastly, the inter-agency task force on internally displaced persons could be urged to meet on a regular basis.

9. Ms. THOMAS (Human Rights Watch) said that in 1990 her organization had established a women's rights project to document and combat violence against women and sex discrimination committed or tolerated by Governments worldwide. Its aim was to expose women's human rights violations to international scrutiny and to ensure accountability for such abuse.

10. While violence against women took different forms, it was endemic to all societies and certain patterns were clearly identifiable. In times of conflict, women might be raped in front of family members, during interrogation or in places where they were held for the sole purpose of being raped. In some instances, wartime rape was accompanied by actual or threatened forcible impregnation. Women refugees and displaced persons were among the most vulnerable, both as a result of the surrounding conflict and because of their dependence on outsiders for relief provisions, which frequently had to be "bought" with sexual favours. Women in custody, particularly incommunicado detention, were especially vulnerable to sexual or other physical abuse at the hands of their jailers and such abuse was often accompanied by other forms of torture and ill-treatment.

11. One of the most pervasive forms of violence against women was abuse inflicted by intimate male partners. In many countries, wife murder was commonplace and in virtually every country domestic violence was a leading cause of female injury. The trafficking of women and girls for forced prostitution and forced "marriage" was a worldwide phenomenon. In some areas, 50 to 70 per cent of trafficking victims became infected with the HIV/AIDS virus.

12. Violence against women was far too often dismissed as random crime or as unfortunate social or cultural practices for which Governments need not be held accountable. The tendency of States to tolerate or even legitimize gender-based violence and subordination had the overall effect of severely inhibiting women's capacity to exercise and enjoy their rights. With a view to putting an end to that lamentable tradition of indifference and inaction, Human Rights Watch strongly urged the Commission to appoint a special rapporteur on violence against women, its causes and consequences, and reaffirm its resolution 1993/46 requesting all special rapporteurs and working groups of the Commission and Sub-Commission regularly and systematically to include in their reports information on human rights violations affecting women. It further urged the Commission to integrate women's rights into the system-wide human rights activities of the United Nations by, among other measures, adding an item on women's rights to the Commission's agenda, and to ensure that the position of the special rapporteur on violence against women and United Nations human rights activities more generally were adequately funded to meet that challenge.

13. Mr. ANDREU (International League for the Rights and Liberation of Peoples) said that it was vital for the study undertaken by the representative of the Secretary-General to give special attention to the causes of, as well as possible solutions to, the problem of internally displaced persons. One principal cause was, of course, civil strife, and the failure of the belligerents to comply with the Geneva Conventions added dramatically to the flow of displaced persons. Such flows could occur spontaneously but might also be the calculated outcome of a military strategy aimed, among other things, at the mass displacement or expulsion of a population - as the case in the territory of the former Yugoslavia.

14. There was an intrinsic relation between military doctrine or geopolitics and displaced persons, and that aspect had to be considered with care in any comprehensive study. Militaristic or total warfare strategies pursued by various States throughout the world, supposedly to resolve internal conflicts, sought to annihilate the "internal enemy", defined vaguely as any social or political actor opposed to the status quo. The targets could be trade unionists, members of opposition parties, peasants' movements, intellectuals or the clergy. The typical aim of such a strategy was to move the local population out of a region and bring in from other areas a population tamed by years of paramilitary terror.

15. Paramilitary groups were used in counter-insurgency as auxiliaries of the army to secure and maintain local control of the population and territory. In Colombia, for example, various internal orders of the armed forces called for the creation and organization of such groups with precisely those functions. One counter-insurgency manual published in Bogotá in 1979 specifically referred to the need to terrorize and threaten the population of a region with death so that it would move out. In Guatemala, the Civil Defence Patrols (PAC) were a result of such military doctrines.

16. The military strategies he was describing were the practical outcome of a doctrine of national security and theory of low intensity conflicts that, with the fall of the Berlin wall, might have seemed historically redundant. However, as pointed out by Nobel Peace Prize winner Gabriel García Marquez,

anti-communism had not died with the breakdown of the Soviet model of socialism. It was continuing to guide the thinking of the Pentagon and many Latin American armies. Military doctrines that included population displacement as a strategic element were incompatible with the rules of international humanitarian law and a flagrant violation of the Geneva Conventions, in particular common article 3 and article 17 of Additional Protocol II.

17. Mr. GARCIA-SAYAN (United Nations Observer Mission in El Salvador) said that he wished, in his first statement to the Commission, to outline the nature, the characteristics and the results of the first permanent and systematic mechanism for human rights monitoring set up by the United Nations in El Salvador. By sending the Observer Mission (ONUSAL), the United Nations had for the first time used its good offices for the solution of an internal conflict.

18. ONUSAL's task was not only to oversee a peace-keeping operation, but also to work for a peace which went beyond putting a halt to armed confrontation; its aim was to eliminate the causes of the conflict. The cessation of hostilities following the Peace Agreements in 1992 was regarded as a prelude to three basic objectives: to encourage democratization, to guarantee full respect for human rights and to achieve the reconciliation and reunification of Salvadorian society. It would thus be possible to make El Salvador a State governed by the rule of law, in which democracy would be the guarantor of respect for human rights and national reconciliation would be the cornerstone of a culture of peace. Those overall aims had been helped on their way by the agreement of 140 detailed commitments to radical reforms of the Constitution, the armed forces, the judicial system, economic and social life, and legislation on human rights, along with a monitoring mechanism.

19. The signature by the Government and the Frente Farabundo Martí para la Liberación Nacional (FMLN) in 1990 of an agreement on human rights demonstrated their political will to negotiate other substantive agreements relating to the cease-fire, structural reform and national reconciliation. The San José Agreement of 26 July 1990 which contained undertakings in respect of human rights also established a mechanism for the protection of human rights unprecedented within the United Nations system. First, at the request of the country concerned, a permanent United Nations mission was set up, with every facility for observation and investigation throughout the country. Secondly, the Human Rights Division was given a mandate to inquire into any aspect of human rights in El Salvador, with activities including monitoring the observance of human rights, receiving communications from any person or institution regarding violations of human rights, visiting any establishment without prior notice, including military and police facilities, conducting interviews with any persons or groups it chose, investigating human rights violations, using the media to implement its mandate and advising government departments. Thirdly, the Director of the Human Rights Division reported direct to the Secretary-General and through him to the Security Council and the General Assembly every three months, a process which made for greater efficiency. His reports were made public. Fourthly, the parties in El Salvador were required to provide ONUSAL with all the facilities necessary for its functioning and to attend speedily and satisfactorily to its recommendations.

20. Since its mission started, on 26 July 1991, ONUSAL had enjoyed the fullest cooperation of the Government, the FMLN and other political groups. The effect of the peace agreements did not end there, however; peace would fully come about in El Salvador only when the necessary constitutional, structural and institutional changes had taken place to create an institutional democracy without which no improvement in human rights could be irreversible. The establishment of a quasi-judicial body - the Office of the National Council for the Defence of Human Rights - to monitor the constitutional and legal aspects of human rights had been of special importance.

21. The results of ONUSAL's work had been extremely positive. Problems remained, such as the noticeable rise in communal violence, the possible political motivations behind some murders, the excessive number of arbitrary arrests, an administration of justice which despite various reforms was still inadequate and the serious shortcomings in police investigations, which often led to impunity for offenders. The commitments entered into under the peace agreements would, however, go far towards solving all such problems. It was a complex and delicate process, but one to which all the parties were committed to completing satisfactorily.

22. Lastly, he gave the Commission an example of the way in which the path of peace was being followed in El Salvador. The new National Civil Police, given the task of keeping a balance between the maintenance of public order and human rights, was made up of 20 per cent ex-combatants of the FMLN, 20 per cent officers of the former national police force and 60 per cent civilians who had played no part in the conflict. Such were the changes that peace had brought to El Salvador and they deserved the full support of the international community.

23. Ms. SPALDING (International Association of Educators for World Peace), speaking first about the further promotion of human rights (agenda item 11), said that the International Association of Educators for World Peace (IAEWP) had focused on education, on encouraging funding through business co-ventures, on regular fund raising through support from the world of the arts and on enhanced professional media involvement. Success seemed to be attainable through the various programmes set up by IAEWP. She welcomed the Secretary-General's report E/CN.4/1994/36, but regretted the lack of a specific budget for future activities; non-governmental organizations could not be effective partners without greater specificity in budgetary matters.

24. Turning to the question of El Salvador, under agenda item 19, she applauded the efforts of those who hoped to transform that country into a "culture of peace". It was a magnificent hope, which could only become reality if there was full compliance with and implementation of the peace accords, especially where they concerned the police and judiciary systems and the issue of impunity. There were, however, substantiated reports of an increase in the number of assassinations and acts of violence, which caused grave concern. Even those running for the highest office had been subjected to death threats, one such example being a vice-presidential candidate, Dr. Francisco Roberto Lima Rivera, who had served not only his country but the international community in various ways. IAEWP sought confirmation that every effort was being made by the Government of El Salvador to ensure his safety.

Threats had also been received by members of the Committee for Development and Democracy in El Salvador (CODDES), which was affiliated with the Central American Refugee Centre in Los Angeles (CARACEN), after they had given a press briefing about the release of documents by the State Department of the United States of America and its Central Intelligence Agency, revealing links between Salvadorian death squad killings and members of the Salvadorian municipal and national governments. Again she sought assurances that it would be made clear to anyone making such threats that they were unacceptable.

25. One of the strongest weapons for peace would be a commitment by the international community to the full implementation of the National Reconstruction Plan in El Salvador, including the provision of funding. By such means it would be possible to respond to the increasingly serious issue of desertification, to help create opportunities for the rehabilitation of people with disabilities and to give assistance to war orphans. IAEWP hoped that there would be a continuing international presence in El Salvador offering the resources of the United Nations and an independent Special Rapporteur to encourage the people of El Salvador in their courageous efforts to change from being a society at war to a culture of peace.

26. Mr. FERNANDEZ (International Organization for the Development of Freedom of Education) welcomed the fact that the idea of a United Nations decade for human rights education was attracting growing support. It was a recognition of the role of education in the promotion of human rights. He warned against too narrow a view of the matter, however; education and human rights should be seen as indissolubly bound up with freedom of education, the right to education and academic freedom. The proposed decade would be an opportunity to re-establish the importance of education to human development, above all the moral education of independent human beings who respected the freedom and dignity of others.

27. The prime objective of human rights education should be to contribute to the construction of a democratic, just and peaceful society. The current priority of national education programmes was to forge national unity. The time had come, however, to take account of the pluralism of world societies, the multiplicity of cultures within each nation and the social and economic interdependence of countries.

28. He drew the Commission's attention to a plan drawn up by the International Organization for the Development of Freedom of Education (OIDEL) in collaboration with an interdisciplinary group of experts, for a new approach to education. Both the values and the methods of education should be given a humanist and personal dimension. The four main requirements were a high quality of teaching staff, independence for centres of education, a proper respect for the individuality of students and real cooperation between the school and the family.

29. In order to establish such a system, it was imperative to review the role of the State in education. With greater popular participation in education a democratic State could safely accord its citizens and institutions greater freedom. On that basis the authorities should have two aims in the area of education: equality of opportunity and the promotion of freedom through the

pluralism of educational institutions. Such a philosophy of educational administration should find expression in measures which would help to bring about educational reforms.

30. Three measures envisaged by the plan were greater autonomy for both public and private educational institutions, an improved status, both social and economic, for teachers and the development of systems which avoided the paralysing hand of bureaucracy. Parents, too, should have more say in the education of their children. That included providing a greater choice of school and establishing genuine participatory mechanisms. Above all, children had the right to coherent and organized teaching which would foster a critical approach and the opportunity to develop freely. Education amounted to more than mere instruction.

31. Lastly, OIDEL's plan envisaged a change in the relationship between private and State education. An effective system that respected public freedoms should have room for both kinds of education. Not only would the competition be beneficial, but parental choice would contribute to a clearer understanding of the aims of a particular institution. With regard to the question of funding, he said that the amount of money spent was less important than the way it was spent. Although there was a strong case for the central funding of most educational institutions - for the sake of social justice, for example - it was unsatisfactory that funding should be wholly in the hands of public officials, both because real critical pluralism became impossible and because bureaucratic management was expensive and inefficient.

32. Mr. DE MATTEIS (International Lesbian and Gay Association) welcomed the holding of the International Year of the Family; it might help to foster an awareness that homosexual men and women could also form a family. Homosexual couples were as worthy of recognition and respect as any other, a fact which was increasingly acknowledged throughout the world.

33. One recent advance had been the resolution passed by the European Parliament putting an end to discrimination against homosexuals in terms of both civil and criminal law. The resolution stated that couples of the same sex should be recognized by law, either by being granted the right to civil marriage or through a legal recognition of the validity of their partnership. Marriages between people of the same sex were already legally acceptable in Denmark, Norway and, most recently, in Greenland; other States were considering similar legislation. The resolution also mentioned that such couples should have the right to adopt children and to share each other's worldly goods. The resolution had encountered strong opposition from those who claimed to speak on behalf of family values and the danger to children. In his organization's view, the resolution supported rather than diminished family values by recognizing the existence of families consisting of couples of the same sex.

34. Reform was also in the air in the State of Queensland in Australia and in the Australian Capital Territory, which were examining the possibility of legislation permitting a contract of civil union applying to both heterosexual and homosexual couples. In Canada, too, a legal reform body had recommended that unmarried couples, whether homosexual or heterosexual, should enjoy the rights of married couples and also be entitled to alimony and inheritance. He

added that legislation already existed in much of the Netherlands and in over 22 cities in the United States of America providing for a public register of the avowed relationship between two people of the same sex, although without according them a legal status.

35. Cases involving the right of couples of the same sex to be married had come before the courts in Germany, Switzerland, the United States and Canada. In 1993 the Supreme Court of the State of Hawaii had ruled that to refuse such a right was discriminatory and challenged the State Government to produce a "reason of State" justifying such discrimination. Such a reason had not yet been forthcoming. In Switzerland, meanwhile, the "Same Rights for Couples of the Same Sex" Committee had drawn up a petition to be submitted to the Federal Assembly, a major aspect of which was a demand for the right of abode for the foreign partner of a homosexual couple and equality of treatment for a partner in case of illness or death. As matters stood, partners of the same sex had frequently been forced into permanent separation; such laws were destructive of the family unit. Six countries currently permitted the immigration of a member of a couple of the same sex to join his or her partner, namely the Netherlands, Denmark, Norway, Sweden, Australia and New Zealand. Such immigration was also sometimes permitted in Canada. The Swiss petition had been signed by over 200 people and would be submitted to the Federal Parliament in March 1994.

36. In conclusion, he said that discrimination against couples of the same sex should end. By not recognizing such couples as constituting a family unit, existing legislation made it hard to maintain homosexual relationships. Yet whenever a homosexual couple was obliged to separate a family unit was broken up. Such discrimination should therefore be condemned within the framework of the International Year of the Family.

37. Ms. HERDT (International Council on Social Welfare), speaking on behalf of 39 non-governmental organizations*, said that Part II, B, section 3 of the Vienna Declaration and Programme of Action, which called for the integration of the human rights of women into the mainstream of United Nations system-wide activity, together with Commission resolution 1993/46 and the Declaration on the elimination of violence against women, represented a new framework on which to build in addressing the task of enabling women to enjoy fully their human rights, after 45 years of indifference on the part of the Commission. On the premise that a special rapporteur on violence against women was to be appointed at the current session, her task of redressing the gender imbalance that had persisted for so long must begin immediately; she must have a mandate, first, to study the causes and consequences of violence, as stated in article 1 of the Declaration and in Part II, paragraph 38 of the Vienna Declaration and Programme of Action; secondly, to seek and receive information from Governments, intergovernmental and non-governmental organizations, including women's groups; thirdly, to respond effectively to such information; fourthly, to recommend measures for prevention of and action against violence, its causes and consequences; and fifthly, to coordinate her activities with those of other special rapporteurs of the Commission, as well as with other

---

* The list of non-governmental organizations concerned appears as an annex to this summary record.

United Nations bodies and agencies, particularly the Commission on the Status of Women and the Committee on the Elimination of Discrimination against Women. To perform those tasks satisfactorily, she must be given the necessary resources and staff.

38. It was also essential that Commission resolution 1993/46, which directed all human rights mechanisms to include gender perspectives in their reports, should become operative. As the Minister for Foreign Affairs of the Netherlands, Mr. Kooijmans, had pointed out, no one must use the appointment of the new rapporteur as an excuse to stop looking into the problems faced by women regarding their rights.

39. Her organization welcomed the appointment of a Focal Point on Women at the Centre for Human Rights, and pledged its support for all aspects of her important work. It was essential that she should be given the necessary authority and resources to carry out that work. Meanwhile, in the context of rationalization of its work, the Commission should consider making the rights of women a separate item on its agenda.

40. Turning to agenda item 19, she said that awareness of the human rights of women must form an integral part of the advisory services programme. The Centre should ensure equal participation of women and men in training courses, especially in the administration of justice, and should award scholarships to women and men on an equal basis. Regional and national arrangements should include provision for training women, since the momentum of integrating the human rights of women into the mainstream of United Nations activity would be lost if the gender perspective was not included at the country level.

41. Finally, in every context in which the criterion of geographical balance was applied, the criterion of gender balance should also be taken into consideration. For instance, the Commission would have demonstrated a better response to the recommendations of the World Conference on Human Rights if, when selecting the officers for its fiftieth session, it had sought to achieve gender balance as well as geographical balance.

42. Mr. TEITELBAUM (American Association of Jurists) said that not only the specialized organs of the United Nations but also the General Assembly and the Security Council had a role to play in the defence and promotion of human rights. His organization's proposals regarding the role of the Security Council in that process were set forth in document E/CN.4/1994/NGO/2, and included proposals for the abolition of the right of veto, an increase in the number of members of the Security Council, to reflect the current number of member States and to secure equitable regional representation, and the abolition of the status of permanent member, or else an increase in the number of permanent members. Document E/CN.4/1994/NGO/3 set forth his organization's proposals regarding the methods of work of the Commission, reform of the procedures for the consideration of situations, the establishment of an emergency mechanism of the Commission, and the need for optional protocols to the Conventions on the Rights of the Child and on the Elimination of All Forms of Discrimination against Women. With regard to the Commission's programme and methods of work, it should rationalize its agenda around, on the one hand, the reporting and consideration of situations that revealed systematic and serious violations of human rights and, on the other hand, the major issues

related to human rights. It would also be desirable for the Commission to rotate its sessions geographically, meeting in turn in each of the different regions. Regarding the consideration of situations, his organization proposed the modification and merging of existing procedures, which would be accelerated and implemented by collegiate bodies, with confidentiality reduced to a minimum.

43. The United Nations Secretariat should operate with total transparency, periodically making public the state of its finances, publishing a list of debtor countries and the amount of their debt, detailing the utilization of available funds, and providing information on the promotions, rotations and appointments of senior officials, the tasks they performed, and the number of officials and experts assigned to each task. Staff should be recruited in strict accordance with the provisions of Article 101 (3) of the Charter of the United Nations.

44. Regardless of improved methods of work, there would be little improvement in results unless human and financial resources were substantially increased. According to one United Nations published source, the budget of the Organization in 1986 had been approximately equivalent to that of the New York Police Department, or twice that of the Greater Tokyo Fire Brigade. Yet, barely 1 per cent of that derisory budget - 12 million dollars, or one fifth of the cost of a fighter aircraft - was allocated to human rights. As for human resources, the Centre for Human Rights had approximately the same number of staff as it had had 10 years previously, while its workload had increased threefold or fourfold in the intervening period.

45. But the sine qua non for effective promotion and defence of human rights was that activities in that field should be carried out in strict compliance with the Charter of the United Nations, the Universal Declaration of Human Rights and the International Covenants on Human Rights, in a spirit of impartiality, objectivity and non-selectivity. That, however, was not always the case. His organization considered, for instance, that the negotiations with the genocidal perpetrators of the military coup in Haiti, negotiations promoted by the Secretariat and supported by some States, and which included provision for an amnesty of those who continued to murder prominent persons and ordinary citizens, violated fundamental legal and ethical standards acknowledged by the international community. If United Nations action to defend human rights was to be effective now and in the future, it must be made clear that human rights and democracy were not negotiable. The United Nations could advocate no solution for Haiti other than the unconditional return of President Aristide. Nor could a democratically elected President be expected to govern in coalition with a band of bloodthirsty criminals. The intransigence of the Haitian military was attributable to the powerful foreign support they received.

46. The principles of impartiality, objectivity and non-selectivity did not always govern the work of the Commission itself. It was to be noted that the situations in Cuba and Haiti were considered under item 12, but that other extremely serious situations, such as existed in Colombia, Guatemala and Peru, or the manifest failure of the Government of El Salvador to comply with its commitments, were not considered under that agenda item. The Commission had also adopted diametrically opposed approaches to the cases of Cuba and Kuwait.

In the case of Kuwait, it had dealt with violations of human rights brought about by an external factor - the Iraqi invasion; but had failed to deal with the serious human rights violations committed by the Government of Kuwait before and after the invasion. In the case of Cuba, on the other hand, the Commission was considering the domestic situation, but was failing to deal with the serious violation of the human rights of the Cuban people and of international law in general, constituted by the embargo imposed by the United States Government for the past 30 years and exacerbated by the recent Torricelli law.

47. As the time approached for the appointment of new members of the Sub-Commission, it was opportune to recall the Commission's resolutions regarding the independence of members of the Sub-Commission, their competence, objectivity and impartiality. The application, without exception, of the principle of independence of members of the Sub-Commission would enable it to fulfil its role more objectively and effectively, and would increase its credibility in the eyes of the public and its authority in the international community.

48. Turning to agenda item 19, he said that the function of advisory services and technical assistance must be guided by the same criteria of transparency to which he had already alluded. Moreover, advisory services had hitherto been devoted exclusively to civil and political rights, and had virtually ignored economic, social and cultural rights. The latter should now be accorded equal attention. In conclusion, he once again stressed that advisory services must not be used to enhance the international image of countries that systematically violated human rights. He trusted that the board of trustees soon to be established would contribute to improving those aspects of the operation of advisory services.

49. Ms. LEE (Liberation) said that human rights standards counted for little unless competent bodies were created with the power to ensure implementation of those standards. Her organization thus welcomed the decision of the General Assembly, in resolution 48/141, to create a United Nations High Commissioner for Human Rights, as well as the ongoing efforts being made to establish a special rapporteur of the Commission on the question of violence against women. The proposal of the Sub-Commission, in its resolution 1993/7, to create a Commission working group on contemporary forms of slavery, and the debate on the creation of an international criminal court taking place in the follow-up to the World Conference on Human Rights, were also extremely important. However, given the reality of power politics in the international community, the creation of those bodies would not in itself be sufficient to ensure the protection of human rights, since those bodies might find themselves powerless in the face of actions committed by rich and influential countries.

50. One such example was furnished by Japan's sexual exploitation of Korean "comfort women" and its recourse to other forms of slavery-like labour during the years of its colonial rule. That exploitation had been condemned by many non-governmental organizations and some Governments, and at its current session the Commission had concurred that those gross violations of human rights and fundamental freedoms constituted war crimes and crimes against humanity. Yet no single perpetrator of the crimes had been punished by the

Japanese authorities. In its efforts to avoid scrutiny of those crimes by the various United Nations bodies, the Japanese Government had argued that the United Nations had no capacity to deal with violations that had occurred before its creation.

51. Her organization urged the Commission to reject that argument on the following grounds: first, the World Conference on Human Rights implicitly rejected the Japanese argument in Part II, paragraph 38 of the Vienna Declaration and Programme of Action, in which it stated that all violations of the human rights of women in situations of armed conflict required a particularly effective response. The principle of non-exclusion of past violations of human rights should in any case also be applied to all other gross violations of human rights. Secondly, a precedent existed for United Nations action concerning violations of human rights committed before its creation: Economic and Social Council resolution 353 (XII) of 16 March 1951 concerned the plight of survivors of concentration camps. Thirdly, it must be remembered that surviving victims of those practices continued to suffer as a result of their experiences, and that their honour would never be restored so long as the perpetrators of those crimes remained unpunished. Having regard to all those considerations, her organization called on the Commission to make every effort to establish and/or strengthen the aforementioned bodies, so as to enable them to address the violations of the human rights of the Korean "comfort women" and of victims of slavery-like practices there and elsewhere in the Asian and Pacific regions.

52. Mr. WAREHAM (International Association against Torture) said that where women's human rights were violated, one could be sure that the overall situation of human rights also merited the closest attention. Increasingly, the Commission had a mandate to examine women's human rights; and that examination must be carried out objectively, impartially and non-selectively. Thus, while ample attention had been devoted to violence against women in Bosnia and Herzegovina, little was known of the situation of women in Angola, where in 1993 alone half a million people had died and there were 400,000 orphans, 200,000 amputees and 3 million displaced people - victims of a terrorist war waged by UNITA, an organization created, financed and armed by the United States of America. Having been involved in the electoral process in Angola, the United Nations had been able to observe how the Angolan Government had complied with the mandates of the international community, while UNITA had consistently violated them. Yet no reports alluded to specific violations of the human rights of Angolan women.

53. In Haiti, the military junta had continued its reign of terror and repression, forcing tens of thousands to become internally displaced. Thousands more had tried to flee, but had been denied asylum in the United States. The United States Government had never supported the democratically elected Government of President Aristide, thereby at least tacitly supporting the coup. What other instances were there of conspirators against a democratic State, guilty of terrorism against their people, being promised asylum and impunity, while the victims were denied political refugee status? There was thus a clear and consistent pattern of violation of the human rights of Haitian women; yet those violations of their rights were not addressed in the Commission's deliberations.

54. One form of violence to which black women in the United States were subjected was environmental racism, with their communities used as dumping grounds for toxic waste that caused birth defects and high rates of respiratory disease among their children. The poverty they suffered was the result of a consistent pattern of government policy, and was manifested in differences in wages between white and black women; denial of access to health care and differences in the quality of the care available; and persistent disparities in infant mortality and maternal death rates. Health statistics from the 1970s had indicated that one out of three Puerto Rican women had been sterilized, often without their informed consent. Migrant women workers from the South working in the developed world suffered sexual harassment, as well as being abused as migrant workers. Violations of the human rights of women must be seen as part of the overall picture of oppression. More important still, it must be realized that the issue of human rights violations covered all of the human rights embodied in the various covenants and treaties as they applied to women.

55. Mrs. RUESTA DE FURTER (International Federation of University Women), speaking also on behalf of International Federation of Women in Legal Careers, Zonta International, World Union of Catholic Women's Organizations and International Alliance of Women, said that her organization took as its starting point the assumption that the specific features of women's rights must form a part of the programmes of advisory services of the Centre for Human Rights. The report of the Secretary-General contained in document E/CN.4/1994/78 represented an improvement on previous documents, in that it at last pointed the way forward in that regard. Unfortunately, it had only recently been made available to her organization, and then only in its English language version. She would thus confine herself to commenting on sections A and E of chapter VII of the report.

56. Chapter VII (A), entitled "Constitutional assistance", referred to technical assistance to those responsible for drafting the basic laws of a country, with a view to ensuring that international human rights standards were incorporated therein. Paragraph 65 enumerated some 18 essential issues to be addressed in connection with the drafting of those laws, all of which her organization endorsed unconditionally. However, discrimination on grounds of sex and mechanisms to ensure equal treatment of women and men before the law were not referred to in that paragraph. It was of paramount importance that those two important issues should be clearly specified, rather than merely implied, in any legislation drafted.

57. The administration of justice, covered in chapter VII (E), was also an area where training and information was of primary importance for implementation of human rights. She drew particular attention to the need to create awareness among those involved in the administration of justice, as highlighted in paragraph 133, for instance the need to realize that the term "degrading treatment" had different connotations for women and for men. The topics on which trainees' awareness was to be assessed, she was pleased to note from paragraphs 137 and 138, included conditions of detention of women and minors. The grasp the report showed of the problems to be tackled was to be applauded; she urged that the search for solutions should continue. She hoped that the list of the experts called on to provide advisory services, as referred to in paragraphs 64 and 126 of the report, would contain an equal

number of men and women. As an example of the expertise to be found among women, she recalled the recent award of the UNESCO prize for education in human rights to Dr. Eva Lantham of the Dutch Antilles for her innovative courses on the administration of justice.

58. She called on the Secretary-General to ensure that such an important activity as the advisory services provided by the Centre for Human Rights received adequate funding. The International Federation of University Women and the non-governmental organizations supporting its statement praised donor governments for their generous contributions to the Voluntary Fund.

59. Ms. PARKER (Sierra Club Legal Defense Fund, Inc.) said that the importance of a healthy environment and the link between poverty and land degradation had been stressed in the 1993 report of the independent expert on Guatemala (E/CN.4/1993/10). The Sierra Club Legal Defense Fund, as it had done in the past, drew attention to the need for United Nations bodies to include the environment when addressing human rights issues, noting that the military in Guatemala, in defiance of humanitarian law, used environmental tactics as part of its overall strategy, destroying forest cover and using fumigation and bombing to dislodge opposition forces and indigenous communities. Vast areas of formerly Indian or peasant land had also been cleared by logging or for oil development. The serious social problems in Guatemala could only be solved by firm civilian control of the military; until that was achieved there could be no genuine negotiation between the parties to the conflict. The human rights problems arising from environmental issues alone were so vast and serious that consideration of the situation of human rights in Guatemala should be included under agenda item 12.

60. As awareness of the link between human rights and the environment had grown so had the need for programmes to address both issues. Since many countries had profound environmental problems related to human rights, the advisory services department of the Centre for Human Rights could usefully include attention to environmental human rights in its work and the Centre could play a coordinating role in action to defend human rights related to the environment.

61. It was possible to prevent environmental disasters that might affect human rights. However, the United Nations human rights system had not yet adequately addressed prevention in any area of human rights. Part of the reluctance to address prevention was that victims or potential victims might be unknown or their numbers unable to be calculated in the present since the damage might not be apparent for years. Meaningful access to information and full disclosure of potential environmental human rights violations were particularly important "prevention" rights. Had there been such access and disclosure in the United States, that country would not have been able to expose thousands of people to high levels of nuclear radiation without their knowledge or consent nor to dump nuclear and other hazardous wastes at sites near residential areas.

62. International funding programmes could also hamper adequate prevention, since human rights bodies might hesitate to question the wisdom of funding approved by another international organization despite evidence of poor social and environmental planning.

63. It should be part of the work of the new United Nations High Commissioner for Human Rights to establish a system to respond to the need for preventive action. It was to be hoped that the Governments promoting the establishment of that post would ensure that the High Commissioner and the Centre for Human Rights received adequate funds. The proposal for an ombudsperson for human rights and the environment, to be appointed by and working under the High Commissioner, appeared a sensible way to address concerns about prevention and implementation of human environmental rights and ensure coordination with other international bodies.

64. The Sierra Club Legal Defense Fund welcomed the attention given by the Commission to mass exoduses and displacement of people and had transmitted a number of its own and other papers on the subject to the Centre for Human Rights and the Special Rapporteur on human rights and the environment.

65. Mr. MOLINA FONSECA (Observer for El Salvador) recalled that the Office of the National Counsel for the Defence of Human Rights had been established under the Peace Agreements and formed part of the efforts to strengthen the country's democratic institutions and to establish conditions that would permit all sectors of Salvadorian society to live together in peace and mutual respect. Although the Peace Agreements had opened up new prospects, it could not be said that human rights abuses had disappeared and that human rights were enjoyed to the full.

66. The Office of the National Counsel for the Defence of Human Rights was not yet fully operational and the budgetary restrictions to which it was subjected meant it was unable to provide complete coverage of the country. Progress was, however, being made, an example being the undertaking given by the new Director of the National Police, as well as by many judges and civil servants, to comply with any resolutions issued by the Office.

67. In order to deal with abuses of human rights of a political nature and other types of violence leading to the deprivation of fundamental human rights such as the right to life, the Office had prepared a draft bill relating to the safety of the public, for consideration by the legislature.

68. The Office was participating in the joint group set up to investigate politically motivated illegal armed groups, since it found it extremely difficult to deal with such cases on its own as it lacked the resources needed to tackle their activities, which at times threatened to destabilize the progress towards peace and democracy.

69. Between September 1993 and January 1994 the Office's four complaint reception centres had received 1,552 complaints of human rights abuses, 47.8 per cent originating in the capital city and 52.2 per cent in the rest of the country. The majority of the complaints received in all the centres concerned alleged violations of due process of law, although the proportion of such complaints was higher in the regional offices than in the capital. Some 53 per cent of all complaints referred to alleged violations of legal or administrative procedures, whereas 36.3 per cent referred to breaches of the rights to life, liberty and security of the person. The perpetrators of those

violations were alleged to be the judiciary in 33.3 per cent and the police in 17.1 per cent of cases. The proportion of complaints about individuals was also high, at 23.6 per cent.

70. The Office had also issued a number of rulings as to whether an abuse of human rights had occurred in a specific case, in order to give guidance on conduct and to strengthen the rule of law. Most of the rulings dealt with cases of due process of law. Next came abuses of the right to freedom, and in third place abuse of the right of detainees to humane treatment. The authorities indicated as being responsible for violations were primarily the National Police and the judiciary; 84.61 per cent of rulings were concerned with the administration of law and order.

71. The Office of the National Counsel for the Defence of Human Rights was in the process of establishing a system for monitoring and following up human rights abuses. It was opening regional offices throughout the country, although their number had to be restricted because of budget cuts. However, eight such offices were planned for 1994 in the country's main localities. The ultimate aim would be to have one office in each of the 14 departments; that could only be achieved with the help of the international community or by an increased national budgetary allocation. A special programme was also being prepared to promote the observation, monitoring, analysis and investigation of gross breaches of human rights.

72. The Office had established a register of detainees and prisoners at detention centres, following a survey carried out in 1993 with the help of the European Union. The purpose of the registration system, which would be fully operational in 1994, was to detect and eliminate arbitrary arrests, to safeguard the rights of individuals during legal proceedings, to determine the circumstances and the legal reason for their detention, to ascertain the situation of a detainee at any given time and to establish legal machinery for the protection of the human rights of detainees.

73. The Office was also preparing a campaign for the promotion and teaching of human rights. Two problems were involved: many people were unaware of the mandate or the existence of the Office and many did not know what their rights were. With the assistance of the Government of Canada, a number of programmes had been developed to bring the Office to the attention of the general public and political circles. In the context of those efforts, the Salvadorian Human Rights Institute had been set up, with financial support from the Governments of France and Spain and the European Union, in order to lay the foundations for a way of life based on full respect for human rights. In addition, courses on the fundamental aspects of human rights had been given in 60 educational centres, to more than 3,000 students and 300 instructors. Training in human rights was also being dispensed to various units of the armed forces. Coordination with the general public was being carried out through the non-governmental organizations.

74. Although much remained to be done it was hoped that the Office of the National Counsel for the Defence of Human Rights would eventually be able to carry out all the tasks envisaged for it under the Peace Agreements. That would however require not merely the continuation of international support but

also a commitment to strengthening the country's institution by Salvadorian society and a political will to build effective democracy in the country.

75. Mr. PANG Sen (China) welcomed the advent of the International Year of the Family. In view of the importance of the event, China had held a preparatory meeting in Beijing for the International Year attended by representatives of 26 countries and areas in the Asian and Pacific regions. The meeting had offered an opportunity for an extensive exchange of views and had dealt with a variety of topics relevant to the family in the region and the International Year. It adopted the Beijing Declaration on the Family in the Asian and Pacific Regions together with a report containing 52 recommendations. Donations to the Voluntary Fund of the International Year of the Family were offered by a number of countries. All in all, the meeting had been successful and fruitful.

76. The family was the fundamental unit of society; happy and harmonious families were an important element in maintaining social stability and promoting economic development. China had over 200 million families and its Government had always attached great importance to the role of the family and had undertaken many activities to promote and enhance family life. In support of the International Year of the Family, the Chinese Government had set up a coordinating committee and had prepared a National Plan of Action which was now being actively implemented.

77. His delegation noted with pleasure the efforts made throughout the world to prepare for and celebrate the International Year of the Family and was convinced that the International Year would undoubtedly have a positive effect on family life, promoting social progress and economic development. The Chinese Government wished the International Year of the Family every success.

78. Mr. DARUSMAN (Indonesia) said that an National Commission for Human Rights had been established in Indonesia in December 1993, in full conformity with the principles relating to the status of national institutions as elaborated by the Third Committee of the United Nations General Assembly and later adopted in a United Nations resolution. The Commission's functions were, inter alia, to act as a source of human rights information, to assist in educating public opinion and in promoting awareness and respect for human rights and to make recommendations regarding any particular situation. The establishment of the National Commission reflected the country's heightened interest in human rights in the past decade and its present membership of the United Nations Commission on Human Rights.

79. The primacy accorded to economic development as a matter of national priority during the past three decades had been perceived as inevitably bringing in its wake an attenuation in the development of other aspects of societal concern such as the political, social and cultural fields. By implication, the protection and promotion of human rights both in terms of heightened consciousness and effective compliance with those rights, had not yet wholly become an integral part of national development dynamics.

80. The Indonesian National Commission was well aware of international criticism directed towards the Government with regard to the perceived human rights situation in the country and was similarly aware that human rights

issues had become the stuff of international politics. It affirmed its determination to contribute towards resolving any human rights transgressions, that might be perceived to have happened, rectifying misunderstandings and dispelling mistrust.

81. In the historical course of a people's national life, the formation of a national commission for the promotion and protection of human rights became a natural development and the existence of such a body served as a reference point in the national efforts to strive for universal human rights goals and to implement human rights norms in the daily life of a nation. Thus, a considerable number of such institutions had been established throughout the 1980s. The ending of the cold war has further promoted the growth of such national institutions.

82. No national human rights institution however was intended as a substitute for a functioning judiciary, which should constitute the basic structure for the protection and promotion of human rights. The essential role of a national institution was to sustain the highest level of consciousness with regard to the observance of human rights standards among the public and the Government, including the latter's enforcement agencies. If a country clearly possessed effective and transparent operational procedures to resolve and redress human rights transgressions, in conformity with internationally recognized standards and norms, it was then entitled to address such questions domestically without undue international intrusion. Effective national institutions could obviously play an important role in that context, since human rights protection and promotion were not self-regulating processes. To that end, they would continuously strive to align themselves on standards and norms which related, inter alia, to their independence, defined jurisdiction and power, accessibility, efficiency and accountability.

83. Steps towards strengthening the new Indonesian National Commission on Human Rights would envisage an initial programme encompassing comparative studies of other similar national institutions, training and research activities. The National Commission welcomed the prospect of fruitful cooperation with the Centre for Human Rights and other relevant United Nations agencies. It also recognized the value of bilateral cooperation with other national institutions to enhance its functions and widen its international network.

84. The Indonesian National Commission endorsed the holding of a third follow-up workshop on national institutions in the Asia Pacific region, rather than in another region with a longer history of human rights institutional development. The reason justifying the choice of that region was the fact that Asia, the most dynamic growth area in the world today, was still perceived as the elusive link in the network of global regional human rights structures. A meeting in that area would give impetus to the development of institutional mechanisms to promote and protect human rights in that massive and culturally diverse continent. For those reasons, Indonesia supported the formalization of the Coordinating Committee for National Institutions in order to facilitate the work of national institutions.

85. In conclusion, he welcomed the establishment of the post of United Nations High Commissioner for Human Rights and congratulated Mr. Ayala Lasso on his appointment to that post. He welcomed the spirit in which the High Commissioner perceived his duties, namely that while the conscience of mankind recognized all human rights to be universal, indivisible, interdependent and interrelated, due attention would be paid to national and regional particularities and to historical, cultural and religious traditions.

The meeting rose at midnight.

Annex

List of non-governmental organizations sponsoring the statement by the International Council on Social Welfare under agenda items 11 (a) and 19

All India Women's Conference

Amnesty International

Asian Women Human Rights Council

Associated Country-women of the World

Baha'i International Community

Centre Europe - Tiers Monde

Centro de Estudios para la Mujer (Costa Rica)

CHANGE

Inter-African Committee

International Council of Women

International Association of Penal Law

International Commission of Jurists

International Lesbian and Gay Association

International Association Against Torture

International Movement Against All Forms of Discrimination and Racism

International Women's Tribune Centre

International Federation of Women in Legal Careers

International Alliance of Women - Equal Rights, Equal Responsibilities

International Abolitionist Federation

International Council of Jewish Women

International Movement for Fraternal Union among Races and Peoples

International Federation of Social Workers

International Federation of University Women

Mothers for Peace, Croatia

International Movement ATD Fourth World

Namibia Women Action for Equality Party

National Council of German Women's Organizations

People's Decade of Human Rights Education

People's Forum for Human Rights

Socialist International Women

WAGGGS

Women's International League for Peace and Freedom

World Jewish Congress

World Union of Catholic Women's Organizations

World Federation of United Nations Associations

World Federation of Methodist Women

World Young Women's Christian Association

Zonta International